

BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D.C.

**ORIGINAL**

In the Matter of	)	MM Docket No. 93-224
	)	
Amendment of Section 73.202(b)	)	RM-8291
Table of Allotments,	)	
FM Broadcast Stations	)	
(Farmington, Missouri)	)	

To: Chief, Allocations Branch

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**COMMENTS ON COUNTERPROPOSAL**

Wayne E. Tate and David E. Smith Communications, Inc. ("David Smith"), hereby submit their joint comments on the Public Notice of the counterproposals filed in the above-referenced proceeding. This Public Notice was issued by the Commission on October 22, 1993. These comments are filed within 15 days of the public notice, as computed by the Commission's rules, and are therefore timely. As set forth herein, the proposals of Tate and David Smith will best serve the public interest, and thus should be adopted.

**Background**

1. Tate and David Smith have proposed three changes in the FM Table of Allotments. Initially, Mr. Tate has proposed the upgrade of his construction permit for WVZA(FM), Herrin, Illinois from Channel 224A to Channel 224B1. In order to accomplish this upgrade, the channel utilized by station KYLS(FM), Ironton, Missouri, must be changed from 224 to 258. The change to channel 258 allows the Ironton station to be upgraded to a C3 facility. David Smith has expressed interest in constructing

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facility. In addition, the change in channels at Ironton allows for the allotment of channel 224A to Centerville, Missouri as its first broadcast service. David Smith has also expressed an interest in constructing a station at Centerville.

2. Thus, this proposed set of allotments would allow the upgrades of two FM facilities, as well as the first local service to the town of Centerville. Clearly, this combination of allotments serves the public interest.

3. During the comments filed in this docket, one additional counterproposal was put forward. The initial proponent of the allocation at Farmington, KREI, Inc., has filed a counterproposal to its own proposal. Rather than proposing the allotment of a C3 channel to Farmington, where KREI, Inc. presently operates an AM and FM station, the proponent has instead asked that the Commission allot a new channel to Bismarck, Missouri, a community near to Farmington and proximate to the present tower of KREI's Farmington FM station, KTJJ. The proposed allotment at Bismarck requires no change whatsoever from the coordinates proposed initially for Farmington. Apparently, as no technical changes have been made in the allotment proposed, this proposal has been advanced merely so that KREI can claim the preference for a first local service at Bismarck.<sup>1/</sup>

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<sup>1/</sup> An expression of interest in the use of Channel 258C3 at Farmington was filed by MKS Broadcasting. As the Farmington proposal would provide a third aural service to that community, and no other public interest benefits for the Farmington allotment have been advanced, it would clearly not be preferred over either the KREI or Tate-Smith proposals, both of which propose a first local service. Thus, the MKS interest will not be further discussed herein.

Discussion

4. The combined counterproposals of David Smith and Tate better serve the public interest than the counterproposal of KREI. KREI in essence proposes an allotment to a single community-Bismarck, Missouri. While a first local service would be brought to that community, Bismarck is located in St. Francis County, which is already served by radio stations at Farmington and Flat River. The Tate-Smith proposal, on the other hand, would bring a first local service to provide the community of Centerville. Centerville is the county seat of Reynolds County. Reynolds County currently has no broadcast service whatsoever. Because of the need for a local service to provide county governmental news and other local service to this unserved county, the Centerville allotment should be preferred over that at Bismarck.

5. Moreover, the Tate-Smith proposal has other public interest advantages in allowing the upgrades of both WVZA and KYLS. As was stated in the initial Petition for Rulemaking filed by Mr. Tate on August 19, 1993, in the engineering declaration at page 3, the upgrade of the Herrin facility will result in an increase in the population covered by the facility from 129,257 to 176,133. This 36 percent increase in population confers a substantial public interest benefit. In addition, the upgrade of KYLS will provide an increase in service by that station from 12,249 people currently served to 59,228 served from the proposed facility. The Centerville allocation will additionally serve

8,423.<sup>2/</sup> Thus, adoption of the Tate-Smith proposal will result in a total service increase of 102,291 persons.<sup>3/</sup>

6. In evaluating competing allotment proposals, the Commission looks at several public interest factors. See, Revision of FM Policy and Procedures, 90 FCC 2d 88, 92 (1982). Here, the highest rated of those public interest factors under the Commission's criteria would be the provision of first local service. As both the Tate-Smith and KREI proposals involve the allotment of a first local service, this case must be resolved under the "other public interest factors" criterion. The fact that the Tate-Smith proposal will provide the first local service to the county seat of a county that presently has no radio service whatsoever makes this proposal preferable. Moreover, the increased population covered by the two upgrades in the Tate-Smith proposal adds additional public interest benefits which far outweigh the service provided by the single allocation proposed by KREI.

7. Therefore, as these combined benefits better serve the public interest than does the single allotment proposed by KREI, the Smith/Tate proposal should be preferred and granted.

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<sup>2/</sup> Computer studies performed by Dataworld supporting these population counts are attached hereto as Exhibit 1.

<sup>3/</sup> Moreover, KYLS is presently off the air due to technical and economic problems. By upgrading the facility to allow it to be competitive with the other stations serving its market, including KREI's KTJJ, this local outlet to Ironton can be preserved and strengthened. In effect, this will be the equivalent of providing a second local service through adoption of the Tate-Smith proposal.

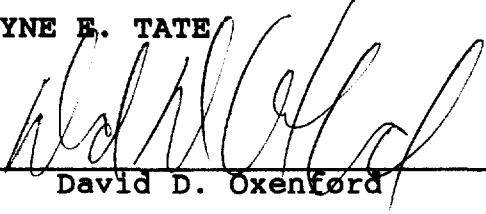
Conclusion

For the reasons set forth above, the construction permit of WVZA should be upgraded to a B1 facility. KYLS should also be allowed to upgrade to a C3 facility, and the new allocation proposed herein for Centerville should also be made. Mr. Tate reiterates his commitment to quickly build the B1 facilities upon grant of the authorization for the upgrade. David Smith reiterates his commitment to construct the upgraded facilities for KYLS and to apply for the new Centerville frequency and to build that station if the allocation is granted.

Respectfully submitted,

WAYNE E. TATE

By

  
David D. Oxenford

His Attorney

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By

  
David E. Smith, President

Date: November 8, 1993

-5-

Conclusion

For the reasons set forth above, the construction permit of WVZA should be upgraded to a B1 facility. KYLS should also be allowed to upgrade to a C3 facility, and the new allocation proposed herein for Centerville should also be made. Mr. Tate reiterates his commitment to quickly build the B1 facilities upon grant of the authorization for the upgrade. David Smith reiterates his commitment to construct the upgraded facilities for KYLS and to apply for the new Centerville frequency and to build that station if the allocation is granted.

Respectfully submitted,

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By David E. Smith  
David E. Smith, President

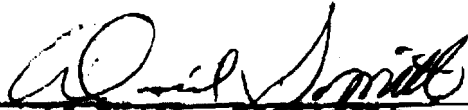
Date: November 8, 1993

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**SUBSCRIPTION AND VERIFICATION**

I, David Smith, hereby verify the foregoing "Comments and Counterproposal." I have read the document. To the best of my knowledge, information and belief, there is good ground to support the relief requested in that document. This filing is not interposed for reasons of delay. I affirm under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

  
\_\_\_\_\_  
David Smith, President  
David E. Smith communications, Inc.  
KFTW Radio  
Box 71, Highway 00  
Fredericktown, Missouri 63645  
(314) 783-6461

Date: \_\_\_\_\_

Population Within Coverage Area

Title: PRESENT KYLS

Latitude: 37-34-23  
Longitude: 90-41-25

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#1  
60 dBu  
(1 mV/m)

bear. Dist.  
(deg) (km)

.0	21.2
45.0	23.6
90.0	25.5
135.0	25.4
180.0	27.0
225.0	22.7
270.0	21.2
315.0	20.9

Listing frequency: Totals only.

1980 Census data totals will be included.

1990 Census data totals will be included.



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WASHINGTON, D.C.

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November 5, 1993

Population count based on 1990 Census

Title: PRESENT KYLS

Coordinates: 37-34-23 90-41-25

60 dBu  
(1 mV/m)

Total Population (1990 Census):

12,247

Area (Square km):

1741.9

Population Within Coverage Area

Title: PROPOSED KYLS

Latitude: 37-34-23  
Longitude: 90-41-35

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#1  
60 dBu  
(1 mV/m)

bear. Dist.  
(deg) (km)

.0	29.7
45.0	39.4
90.0	44.1
135.0	44.3
180.0	48.5
225.0	36.3
270.0	31.0
315.0	29.9

Listing frequency: Totals only.

1990 Census data totals will be included.

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Population count based on 1990 Census

Title: PROPOSED KYLS

Coordinates: 37-34-23 90-41-35

60 dBu  
(1 mV/m)

Total Population (1990 Census):

59,228

Area (Square km):

4654.6

Population Within Coverage Area

Title: ALLOC. - CENTERVILLE

Latitude: 37-26-00  
Longitude: 90-58-00

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#1  
60 dBu  
(1 mV/m)

bear. Dist.  
(deg) (km)

.0	27.8
45.0	31.2
90.0	33.2
135.0	29.0
180.0	31.1
225.0	24.0
270.0	23.3
315.0	24.2

Listing frequency: Totals only.

1990 Census data totals will be included.

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November 5, 1993

Population count based on 1990 Census

Title: ALLOC. - CENTERVILLE

Coordinates: 37-26-00 90-58-00

60 dBu  
(1 mV/m)

Total Population (1990 Census):

8,423

Area (Square km):

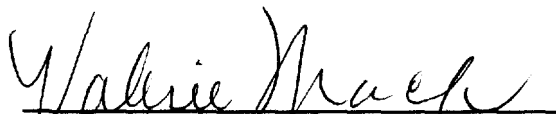
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CERTIFICATE OF SERVICE

I, Valerie A. Mack, a secretary to the law firm of Fisher, Wayland, Cooper and Leader, hereby certify that I have on this 8th day of November, 1993, mailed by first class United States mail, postage prepaid, a copy of the foregoing "COMMENTS ON COUNTERPROPOSAL" to the following:

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Valerie A. Mack

\*Hand Delivered